

October 2, 2001

**Via E-mail and U.S. Mail**

Mary Cottrell  
Secretary  
Department of Telecommunications and Energy  
One South Station, 2nd Floor  
Boston, Massachusetts 02110

Re: Petition of Cape Light Compact for Approval of a Municipal Aggregation Default Service Pilot Project, D.T.E. 01-63

Dear Secretary Cottrell:

By this letter, the Office of the Attorney General ("Attorney General") and the Division of Energy Resources ("DOER") provide Joint Reply Comments in the above referenced proceeding concerning the August 15, 2001 petition by the Cape Light Compact ("Compact") seeking approval of a pilot program pursuant to St.1997, c. 164, § 339. As discussed below, the Attorney General and the DOER submit that the Department of Telecommunications and Energy ("Department" or "DTE") can and should now approve the Compact's proposal for a pilot municipal load aggregation program.

In the period following the filing of Initial Comments, the Compact has provided clarification of aspects of its original proposal as well as agreed to supplement that proposal to provide certainty in regard to other aspects of its proposal.<sup>1</sup> The Compact has made it clear that it does not propose to be a provider of Default Service power but instead, consistent with the terms of G.L. c. 164, § 134, a municipal retail load aggregator making available a competing power supply alternative for retail customers who would otherwise receive Default Service from Commonwealth Electric Company. It has agreed to make explicit the requirement that the pilot proceed only if a power supply contract that will deliver demonstrable savings to participating customers can be secured and that that contract will be filed with the Department for review and approval with at least five (5) full business days available to the Department and the undersigned to determine whether to initiate an investigation into the terms of the proposed power contract.<sup>2</sup> The Compact has agreed to extend the initial opt out period from 23 to 30 days as well as to

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<sup>1</sup> The Compact provided additional information to explain, clarify or supplement its August 15, 2001 filing during the course of a meeting held at the offices of the Attorney General on September 25, 2001 as well as in subsequent telephone communications. The Compact has represented that this additional information will be included in the Reply Comments it will file today.

<sup>2</sup> The Attorney General and the DOER understand that the Compact will include with any proposed power contract the maximum class-specific total of the all-in cost of serving pilot customers on a cents/kWh basis.

include references for additional market information in the written opt out notices provided to consumers. Finally, it has agreed to meet with representative of the Attorney General to present details about its planned public notification program.

In these circumstances, the Attorney General and the DOER both submit that the Department should approve the Compact's proposal as modified in its Reply Comments. As a pilot municipal load aggregation program open only to those customers with the greatest need for an alternative power supply that offers savings, the Compact proposal is both appropriate and timely. If implemented, it will provide the Compact, the Department, and others interested in public aggregation programs with valuable experience and insight into the operation of a public aggregation program. It will also provide an opportunity for savings to participants at no additional cost to any non-participant.<sup>3</sup> Moreover, approval of the program in advance of the submission of an actual power contract will not prejudice the critical issues of whether the power contract will produce savings for consumers and whether the particular terms of service in that contract (such as restrictions on consumers migrating from the pilot program) are appropriate. Those issues are reserved for resolution later, in a concrete context, with actual contract provisions in hand. The competing concerns that should guide Department action here -- ensuring meaningful oversight and minimizing the delay between bid receipt and acceptance -- are the same here as for other power supply contracts and they require pursuit of the proposed two part process. *See Pricing and Procurement of Default Service*, D.T.E. 99-60-C (October 6, 2000) ("A five-day review period is an appropriate balance of the two objectives").

If you have any questions or require any assistance in regard to this filing please feel free to contact either of the undersigned at the numbers provided below.

Sincerely,

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<sup>3</sup> The Attorney General and the DOER understand that NSTAR has determined that based upon the enrollment process and other implementation mechanics to be described in the Compact's Reply Comments, the costs of implementing the pilot municipal retail load aggregation program are of a magnitude that it will not seek to recover those costs from either the Compact or its other customers.